

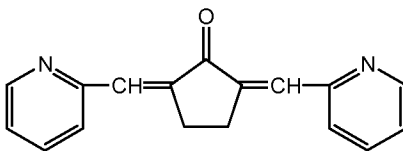
REMARKS

Reexamination and reconsideration of this Application, withdrawal of the rejections, and formal notification of the allowability of all claims as now presented are earnestly solicited in light of the above claim amendments and remarks that follow. Claims 13-16, 20, 23, 26-30, 33, 36-38, 42, and 52 are pending in the present application.

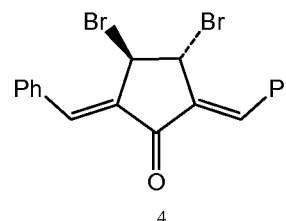
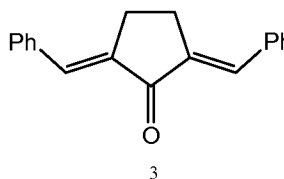
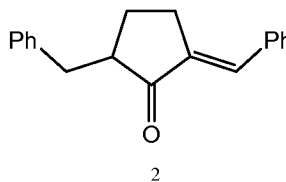
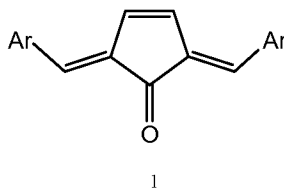
Claim 23 stands rejected under 35 U.S.C. §103(a) as allegedly being obvious over Desiraju *et al.*, *Indian Journal of Chemistry*, 27B(10):953-954 (1988), particularly in relation to the compound on page 17 of the CAPLUS Abstract. Claim 23 also stands rejected as allegedly being obvious over Katritzky *et al.*, *Journal of Heterocyclic Chemistry*, 25(5):1321-1325 (1988), particularly in relation to the compounds on pages 18-19 of the CAPLUS Abstract. Applicants respectfully traverse these rejections.

Desiraju *et al.*

Initially, the compound on page 17 of the CAPLUS Abstract (shown below) is not actually disclosed by Desiraju *et al.*



Desiraju *et al.* (attached hereto) disclose four structures, and none of the structures encompass the compound from the CAPLUS Abstract. The structures disclosed by Desiraju *et al.* are provided below.



The "Ar" group in formula 1 can be C₆H₅, 3,4-dichlorophenyl, 2,4-dichlorophenyl, or α -pyridyl. In formulas 2-4, the terminal "Ph" groups are phenyl groups. This is evidenced in that Desiraju *et al.* refer to the compounds of formulas 2-4 as being dibenzylidenecyclopentanone compounds. Accordingly, the "Ph" groups do not encompass pyridyl groups, and the only structure in formulas 1-4 that can be the source of the compound disclosed in the CAPLUS Abstract is formula 1. However, formula 1 includes a double bond in the central ring, and the structure in the CAPLUS Abstract does not include the ring double bond. Accordingly, Applicants submit Desiraju *et al.* do not actually describe the compound disclosed by the CAPLUS Abstract.

Similarly, Applicants submit Desiraju *et al.* do not disclose any compounds encompassed by present claim 23. All compounds according to present claim 23 include pyridyl groups as the outer ring groups. As pointed out above, only formula 1 in Desiraju *et al.* discloses compounds having pyridyl groups as the outer ring groups. Moreover, formula 1 requires a central ring double bond. Claim 23 does not encompass compounds having a central ring double bond. Accordingly, as Desiraju *et al.* do not disclose any compounds encompassed by the structure of claim 23, Applicants submit Desiraju *et al.* do not make obvious the pharmaceutical formulations of present claim 23.

Applicants also respectfully point out that, even if Desiraju *et al.* did disclose compounds according to claim 23 (which Applicants have already illustrated is not the case), Desiraju *et al.* still would not make obvious the pharmaceutical formulations of claim 23. Desiraju *et al.* only disclose a method for the preparation of compounds according to the disclosed structural formulas. Desiraju *et al.* make no teaching or suggestion as to the possible use of the compounds prepared according to the disclosed synthesis. Desiraju *et al.* certainly do not disclose that any of the compounds exhibit any pharmaceutical activity. Rather, Desiraju *et al.* disclose that the compounds were prepared in relation to an investigation of solid state photochemistry of crystalline olefins. A skilled person would thus find nothing in Desiraju *et al.* teaching or suggesting pharmaceutical uses of the disclosed compounds.

In light of the above, Applicants submit the pharmaceutical formulations of claim 23 are not obvious over the disclosure of Desiraju *et al.* In fact, Applicants submit Desiraju *et*

al. do not even disclose the compounds of claim 23. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection over Desiraju *et al.*

Katritzky *et al.*

The compounds disclosed in the CAPLUS Abstract for Katritzky *et al.* arise from the intermediates of formula 1 in scheme 1 (page 1321) of the full text document (which is attached). Scheme 1 illustrates a method of synthesis of bridged cyanine dyes, and the entire disclosure of Katritzky *et al.* is directed to synthesis of such dyes. Katritzky *et al.* only describe the synthesis methods and the spectral analyses of the compounds prepared thereby, and they provide absolutely no disclosure as to possible alternate uses of the synthesized cyanine dyes.

Moreover, as pointed out above, the compounds cited in the present rejection are actually only disclosed by Katritzky *et al.* as being intermediates in the preparation of the desired cyanine dyes. As such, Katritzky *et al.* provide no description of the intermediates except to state the intermediates are yellow crystals. In other words, Katritzky *et al.* do not disclose or suggest that the intermediates according to formula 1 possess any pharmaceutical activity. In fact, they do not disclose or suggest any use for the intermediates, even as dyes.

In light of the above, Applicants submit a skilled person viewing Katritzky *et al.* would find no teaching or suggestion therein that the synthesized products possess pharmaceutical activity. Certainly there is not teaching or suggesting that the intermediate products in the disclosed synthesis reactions possess pharmaceutical activity. Katritzky *et al.* only disclose methods of synthesis and do not expressly or inherently disclose or suggest any non-dye use for the synthesized compounds and do not disclose or suggest any use at all for the intermediates. Accordingly, Applicants submit the pharmaceutical formulation of claim 23 is not obvious over Katritzky *et al.*, and Applicants respectfully request reconsideration and withdrawal of this rejection.

Applicants respectfully submit all claims are in condition for immediate allowance. Accordingly, a Notice of Allowance is respectfully requested in due course. If any minor formalities need to be addressed, the Examiner is directed to contact the undersigned attorney by telephone to facilitate prosecution of this case.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/ryan w. cagle/

Ryan W. Cagle
Registration No. 47,468

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT AND TRADEMARK OFFICE ON May 9, 2007.